

**ADDENDUM TO PETITION (Probation Form 12)**

RE: Michael Fitzgerald  
Case No.: 2:03-cr-493-RCJ-LRL  
January 4, 2012

The Honorable ROBERT CLIVE JONES, UNITED STATES DISTRICT JUDGE  
**Chief United States District Judge**  
Las Vegas, Nevada

Honorable Sir:

Reference is made to the Probation Form 12, dated December 14, 2011, alleging violations of supervision. We are requesting that the petition be amended to include the following:

**1. The defendant shall refrain from any unlawful use of a controlled substance.**

On December 15, 2011, Fitzgerald tested positive for the use of methamphetamine. This specimen was subsequently analyzed by the national laboratory which confirmed the presence of methamphetamine in the offender's urine.

On December 19, 2011, Fitzgerald submitted to a drug test which was positive for methamphetamine. The specimen was subsequently analyzed by the national laboratory which confirmed the presence of methamphetamine in Fitzgerald's urine. Fitzgerald admitted that he had reused methamphetamine "three days" prior to the admission of this test.

**EVALUATIVE SUMMARY**

As referenced in the petition dated December 14, 2011, Fitzgerald admitted to using methamphetamine on three different occasions within a two and a half week period. The additional positive tests outlined in this addendum constitutes Fitzgerald's fourth and fifth usage of methamphetamine in just over a three week time period. Fitzgerald claims the positive test on December 15, 2011, was not the result of new use citing the methamphetamine was still in his system from having used just prior to his positive test on December 13, 2011. A toxicologist with the national laboratory compared the results of these two tests and concluded that Fitzgerald had reused methamphetamine subsequent to the December 13, 2011, test and prior to the December 15, 2011, test.

It should also be noted that several attempts to contact the offender on December 28, 2011, to have him report to the probation office for a drug test were made without success. Fitzgerald failed to respond to text messages instructing him to report that date. In addition, he failed to answer his cell phone. The undersigned officer surmises Fitzgerald would have been positive for methamphetamine once again, thus why he failed to respond. Fitzgerald finally reported the morning of December 29, 2011, wherein he was taken into custody on the warrant issued by Your Honor on December 22, 2011.

Pursuant to 18 U.S.C. § 3583(g)(4), if the offender tests positive for illegal controlled substances more than three times over the course of one year, the Court shall revoke supervised release. Consistent with this directive, combined with the offender's criminal history, continued use of methamphetamine, and lack of responsiveness to treatment; revocation of supervised release as previously recommended is reaffirmed.

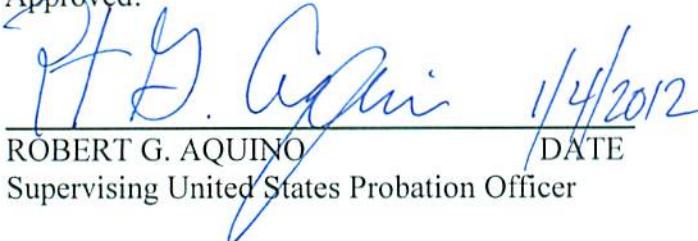
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Respectfully submitted,

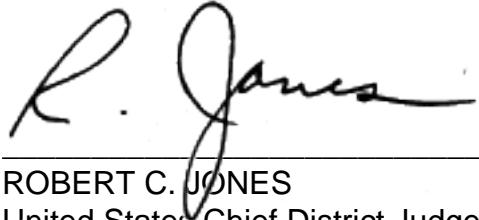
  
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TODD J. FREDLUND  
Senior United States Probation Officer

Approved:

  
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ROBERT G. AQUINO DATE

Supervising United States Probation Officer

IT IS SO ORDERED dated this 10th day of January, 2012.

  
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ROBERT C. JONES

United States Chief District Judge